

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**HUNTINGTON DIVISION**

**REBECCA KLUG,**

**Plaintiff,**

**v.**

**Civil Action No. 3:18-cv-00711  
Judge Robert C. Chambers**

**MARSHALL UNIVERSITY  
BOARD OF GOVERNORS,  
and FARID B. MOZAFFARI, an individual,**

**Defendants.**

**PLAINTIFF'S FIRST MOTION TO COMPEL DISCOVERY**

COMES NOW Plaintiff, Rebecca Klug, by counsel, and respectfully moves the Court to compel Defendant Marshall University Board of Governors ("BOG") to fully and completely answer and respond to Plaintiff's First Set of Interrogatories and Request for Production of Documents and Things. In support of her motion, Plaintiff states as follows:

1. On or about May 28, 2019, Plaintiff served her First Set of Interrogatories and Request for Production of Documents and Things upon Defendant BOG via United States Mail. (Ex. 1.)
2. Pursuant to the Federal Rules of Civil Procedure, Defendant BOG's answers and responses to Plaintiff's written discovery were due by July 1, 2019.
3. Defendant BOG served its answers and responses on June 27, 2019. (Ex. 2.)
4. After carefully reviewing Defendant BOG's answers and responses, Plaintiff concluded that several responses were inadequate, incomplete and/or otherwise insufficient.

5. In an effort to resolve the discovery disputes in an amicable and conciliatory manner, on July 5, 2019, Plaintiff's counsel wrote Defendant BOG's counsel requesting that BOG reconsider and inform her of his client's intentions regarding the items detailed in her letter "no later than the close of business on Friday, July 12, 2019." (Ex. 3.)

6. Plaintiff's counsel's four-page letter explained in detail Plaintiff's specific concerns over each inadequate, incomplete, or insufficient response. (*Id.*)

7. Rather than restate here each disputed discovery item, Plaintiff simply incorporates herein by reference her counsel's letter of July 5, 2019.

8. Defendant BOG's counsel responded to Plaintiff's concerns by a letter dated July 12, 2019. (Ex. 4.)

9. In that letter, BOG agreed to withdraw its list of general objections inserted prior to its answers to the interrogatories.

10. It also agreed to supplement its responses to Request for Production Numbers 12, 14, and 26. However, to date, Plaintiff has not received any supplemental documents.

11. In regard to Interrogatory Numbers 7, 8, and Request for Production Numbers 8, 9, 10, 11, 21, 22, 24, 25, 27, 28, and 29, Defendant BOG maintains its objections and will not supplement its prior answers and responses.

12. Pursuant to the federal rules, Plaintiff is required to file a motion to compel within thirty (30) days of the date the discovery answers and responses were served, if the discovery disputes cannot be resolved.

13. In order to protect her interests, Plaintiff had no choice but to file the instant motion to secure Defendant's compliance with its discovery requirements.

14. Plaintiff also certifies that she has attempted in good faith to obtain the requested information without Court action, but was left with no choice but to file the instant motion.

15. Plaintiff further submits such other grounds as may be assigned at a hearing to be conducted upon her motion.

**WHEREFORE**, Plaintiff respectfully requests that this Court enter an Order compelling Defendant BOG to fully and completely respond to and comply with Plaintiff's First Set of Interrogatories and Request for Production of Documents.

Pursuant to Rule 37 of the Federal Rules of Civil Procedure, Plaintiff also requests that this Court enter an Order requiring Defendant BOG to pay all fees and costs associated with Plaintiff's: (a) prosecution of this motion; and (b) efforts to obtain full and complete responses to Plaintiff's written discovery. Plaintiff seeks such further legal and/or equitable relief as may be appropriate.

Respectfully submitted,

**REBECCA KLUG**  
Plaintiff  
By Counsel

s/ Kristina Thomas Whiteaker

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Kristina Thomas Whiteaker (State Bar No. 9434)  
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**CERTIFICATE OF SERVICE**

I, Kristina Thomas Whiteaker, counsel for Plaintiff, do hereby certify that I have this 29<sup>th</sup> day of July, 2019, electronically filed with the Clerk of the Court ***Plaintiff's First Motion to Compel Discovery*** using the CM/ECF system, which will send a copy of this document, as well as notification of such filing, to the following:

Perry W. Oxley, Esq./L.R. Sammons, III, Esq.  
Eric D. Salyers, Esq./David E. Rich, Esq.  
Oxley Rich Sammons  
Post Office Box 1704  
Huntington, WV 25718

s/ Kristina Thomas Whiteaker

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